CHAITANYA ASHOK JADHAV Digitally signed by CHAITANYA ASHOK JADHAV Date: 2025.11.21 15:22:25 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 628 OF 2025

Pr. Commissioner of Income Tax-41,
Mumbai … Appellant

Versus

Dinesh Prabhudas Hingoo … Respondent

Mr. Ravi S. Rattesar, for Appellant.

CORAM : M.S. Sonak &
Advait M. Sethna, JJ.

DATED : 20 November 2025

PC:-

1. Heard Mr. Rattesar for the Appellant.

2. The tax effect in this Appeal is less than Rs.2 crores. However, Mr. Rattesar submits that this Appeal falls within the exceptions carved out in the CBDT Circular.

3. Without going into the issue of whether this Appeal is indeed falls within the exceptions, we have heard Mr. Rattesar on merits. Mr. Rattesar proposes the questions formulated in paragraph 4 of the Appeal memo for admission of this Appeal.

4. However, upon perusing the ITAT's order, we find that the ITAT has held against the Revenue because, in this matter, the ITAT found that there was no case for reopening of the assessment. The ITAT has recorded detailed findings as to how the reopening in this matter was based on certain directions from superior officers or based upon complete misconstruction of the material placed before the Assessing Officer. In short, the ITAT has concluded that there was complete non-application of mind when it came to reopening of the assessment.

5. Significantly, no question has been formulated in the Appeal memo on the aspect of reopening of the assessment. It is because the findings with regard to the compliance with the jurisdictional parameters for such reopening are based upon the appreciation of the material on record and the same can hardly be styled as perverse. If the reopening of the assessment was without jurisdiction, then, there is no point in addressing the questions now formulated in the Appeal memo. These questions basically go to the merits of the assessment which is a stage to be considered only if the reopening of the assessment is to be regarded as valid.

6. For the above reasons, we hold that the questions now proposed in the Appeal memo cannot be said to be involved in this Appeal and in any event, such questions cannot be regarded as substantial questions of law based upon which this Appeal can be considered or admitted. On a demurrer, even if all such questions are to be answered in favour of the Revenue, if the finding on the aspect of reopening of the assessment is not challenged and in any event, warrants no interference, no relief can be finally granted to the Revenue.

7. For all the above reasons, we decline to admit this Appeal. This Appeal is dismissed without any costs order.

(Advait M. Sethna, J.) **(M.S. Sonak, J.)**